IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

Crl.Rev.Pet.No. 39 of 2005()

CC.3/1999 of SPL.COURT SPE/CBI-II & IV ADDL.SESSIONS COURT, ERNAKULAM

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REVN. PETITIONER: COMPLAINANT

CENTRAL BUREAU OF INVESTIGATION
KARTHIKADAVU, KOCH-17.
(RC 26(A)96/KER)

BY ADV. SRI.S.SREEKUMAR, SC FOR CBI

RESPONDENTS: ACCUSED NO.2

ASSAM BROOK EXPORT LTD., REPRESENTED BY
SRI.SIDHARTH RAMPURIA, DIRECTOR SHAKESPEARE SARANI
CALCUTTA (WEST BENGAL)

BY ADV. SRI.J.JOSE
SRI.SHAJI THOMAS PORKKATTIL

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P. No. 39 of 2005

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Dated, this the 6th day of August 2007

ORDER

In this Revision filed under Section 397 read with Sec. 401 Cr.P.C., the Inspector of Police SPE/CBI, Cochin who was the complainant in R.C. 26(A)/96-KER challenges the order dated 17-9-2004 passed by the Special Judge, SP/CBI-II, Ernakulam discharging the 2nd accused by relying on three-Judges' Bench decision of the Apex Court in **Assistant Commissioner, Assessment -II v. Velliappa Textiles Limited - 2004 SCC Crl. 1240** wherein it was held that a company being a juristic person cannot be prosecuted in a case for an offence where imprisonment is a mandatory punishment. A Constitution Bench of the Apex Court has overruled the above decision in Standard **Chartered Bank v. Directorate of Enforcement - 2005 SCC Crl. 961** wherein it has been held that courts would read down the sentencing provision and impose fine in lieu of imprisonment on companies instead of expressing impossibility of sentencing a corporate body to imprisonment. Hence the order passed by the court below discharging the second accused/Company is unsustainable and, is, accordingly set aside. That court shall

proceed to frame charge against the 2nd accused as well and make an earnest endeavour to dispose of the matter as expeditiously as possible since the occurrence took place way back in 1990 and the cognizance was taken in the year 1999.

V. RAMKUMAR,

(JUDGE)

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